IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2708 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ABHAYSINGH MANGALSINGH ZALA

Versus

DIVISIONAL CONTROLLER

Appearance:

MR MAHENDRA K PATEL for Petitioner No. 1

MRS VASAVDATTA BHATT for Respondent No. 1-2

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 22/10/2002

ORAL JUDGEMENT

1. This is a petition filed by an ex-employee of respondents No. 1 and 2, complaining of non-payment of pension inspite of a long lapse of time.

2. It is pertinent to note that the present petition was filed on 18th June 1999 and rule was issued by order

dated 10th August 1999. However, till today, the respondents have not filed any affidavit-in-reply. It is, therefore, to be presumed that the respondents have no adverse comments to make as regards the specific averments made in the petition.

3. The petitioner's case is that he was working as a Peon in the ST Depot at Matar (Nadiad Division). For personal reasons, he resigned from service by his letter of resignation dated 10th March 1996. The petitioner asserts that he has completed more than 25 years of service. Thereafter, he seems to have had second thoughts, and made various applications in the nature of representations for appointment of his son on compassionate grounds etc. The petitioner also asserts that he is not being paid the pension due to him.

4. The petitioner asserts that under the service regulations, he is entitled to pension and/or pensionary benefits. From the correspondence annexed to the petition, it appears that he would be entitled to certain retiral benefits including the Provident Fund amount standing to the credit of his P.F. Account as also other pensionary benefits. The letter on page 14 has been written by the Accounts Officer at Nadiad addressed to the Administrative Officer at Nadiad, pointing out that the procedure as regards obtaining Form No. 10-D is the responsibility of Administrative Department, and in case there is delay in compliance in this regard, it shall be the responsibility of the Administrative Department at Nadiad.

4.1 The letter on page 13 has been addressed by the Accounts Officer, Nadiad to the petitioner, wherein firstly the pension claim of the petitioner has been acknowledged. Secondly, the petitioner was called in person for certain clarifications. The petitioner asserts that he has met the Accounts Officer, Nadiad and has given the necessary clarifications, and inspite of the same, so far his pension claim has not been passed.

5. It would, therefore, appear that there is no controversy in principle that the petitioner is entitled to pensionary benefits in law. The only question is as to what is the amount, and how it is to be paid to the petitioner. This question is not answered by the respondents by filing any affidavit-in-reply whatsoever.

6. In the premises aforesaid, there is no reason why the petitioner should wait indefinitely to obtain appropriate relief merely because the various departments

of the respondent Corporation are unable to sort out differences amongst the various departments.

7. In the premises aforesaid, it is held and directed that the respondents shall determine and pay to the petitioner all pensionary benefits due to him from the date of his resignation in accordance with law, within three months from today. If the petitioner's claim is not decided and paid as aforesaid, the amount shall bear interest at 1% per month for the period of delay. This direction is given in the context of prayer (B). Other prayers made in the petition are rejected.

8. This petition is accordingly partly allowed as aforesaid, and rule is made partly absolute with no orders as to costs.

Direct service is permitted.

sd/-
(Y.B. BHATT, J.)
mathew